

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

MYRON GAYLORD BRANDON,

Petitioner,

v.

STATE OF WASHINGTON,

Respondent.

Case No. C04-5617KLS

ORDER

This habeas corpus matter is before the court on consent. Before the court are two motions filed by petitioner. The first is a request to extend time to file a reply. (Dkt. # 27). The second motion is a second attempt to have the court consider the issue of petitioner's state personal restraint petition being time barred as a motion separate from the petition on the merits. (Dkt. # 44).

Currently petitioner has until June 3rd to show cause why this action should be stayed. The court will grant until **July 29th, 2005** to file a traverse. The motion for an extension of time is **GRANTED.**

The motion relating to petitioner's state court personal restraint petition being time barred is **DENIED.** Petitioner argues he meets the federal mail box rule, and his petition was mailed one day before the time expired. Washington state does not follow the mail box rule. In Re Carlstad, 150

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1 Wn. 2d 583 (2003). Further, this is an issue that should be considered when the petition is
2 considered on the merits as noted in the court's prior ruling on this issue. (Dkt. # 43). Petitioner has
3 failed to show the courts prior ruling on this issue, (Dkt. # 43), was improper.

4 The clerk is directed to send copies of this order to petitioner and counsel for respondent.
5 And to remove entries 27 and 44 from the court's calendar.

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7 DATED this 27th day of May, 2005.
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13 Karen L. Strombom
14 United States Magistrate Judge
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